

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

AMANDA SMITH,
Plaintiff

v.

SNYDER COUNTY, et al.,
Defendants

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No. 1:14-cv-1329

(Judge Kane)
(Magistrate Judge Schwab)

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On September 10, 2015, Plaintiff Amanda Smith from an order of Magistrate Judge Schwab that granted Defendants' motion for a psychological evaluation of Plaintiff pursuant to Federal Rule of Civil Procedure 35. (Doc. No. 31.) Plaintiff argues that the four tests authorized by the order would be burdensome and invasive, and that the tests would be duplicative because a defense expert has already conducted a psychiatric evaluation of her. (See Doc. No. 32.) Defendants argue that, while a psychiatric evaluation has been performed, they still need a psychological evaluation to litigate this case. (See Doc. No. 33.)

Pursuant to Federal Rule of Civil Procedure 35, a court may order a mental examination of a party whose mental condition is in issue upon a showing of good cause and notice. Fed. R. Civ. P. 35. Applying that rule, Magistrate Judge Schwab found that Defendants showed good cause for the examination and that Plaintiff placed her mental condition in issue. (Doc. No. 30.) Pursuant to 28 U.S.C. § 636, a district court will only upset a pre-trial ruling by a magistrate judge when the ruling "is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A). Consequently, the Court will not upset Magistrate Judge Schwab's disposition of Plaintiff's pre-trial motions absent clear error. See Harrisburg Auth. v. CIT Capital USA, Inc., 716 F. Supp. 2d

380, 386 (M.D. Pa. June 14, 2010); M.D. Pa. L.R. 72.2. Upon a review of the record, the Court does not find that Magistrate Judge Schwab committed clear error when she ordered Plaintiff to undergo a limited psychological evaluation.

ACCORDINGLY, on this 25th day of April, 2016, **IT IS HEREBY ORDERED THAT** Plaintiff's appeal (Doc. No. 31), is **DENIED**.

S/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania